

A. G. Contract KR88-2362-TRD
ECS File: JPA 88-81
Project: AZM 600-0-509
Section: Outer Loop Highway/Section 4A
Trac No. 101 LMA H 0803 04C

INTERGOVERNMENTAL AGREEMENT

BETWEEN
THE STATE OF ARIZONA
AND
City of Peoria

THIS AGREEMENT is entered into this 18TH day of November, 1988, between the State of Arizona, acting by and through its Department of Transportation, herein after called "STATE", and the City of Peoria, acting by and through its City Council, hereinafter called PEORIA.

I. RECITALS

1. The STATE is empowered by Arizona Revised Statutes Section 28-108 to enter into this Agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this Agreement and has delegated to the undersigned the authority to execute this Agreement on behalf of the STATE.

2. PEORIA is empowered by Arizona Revised Statutes Section 48-572 and PEORIA Charter Article I, Section 3, Paragraph 15, to enter into this Agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this Agreement and has authorized the undersigned to execute this Agreement on behalf of PEORIA.

3. It is to the mutual advantage of the STATE and PEORIA to landscape certain areas within the right-of-way (ROW) on the Outer Loop Highway, Loop 101 at the following location, as shown on EXHIBIT A, attached and made a part of this Agreement:

From centerline roadway station 459+00 to centerline roadway station 576+12, a net distance of approximately 2.2 miles and including median islands within the following designated cross streets:

- o Loop 101 and Northern Avenue
- o Loop 101 and Olive Avenue
- o Loop 101 and Peoria Avenue

NO. <u>13522</u>
FILED WITH SECRETARY OF STATE
Date Filed <u>12-1-88</u>
<u>Jim Shumway</u> Secretary of State
By <u>B. J. Hermillion</u>

II. AGREEMENT

Now, therefore it is mutually agreed by and between the parties hereto as follows:

1. The STATE shall prepare plans for the landscaping and the irrigation project.
2. The project shall be constructed by the STATE, using STATE funds.
3. The STATE shall furnish and install necessary water services from water mains to the designated locations within the ROW at the STATE's expense.
4. The STATE shall install and PEORIA shall pay for the installation of a 12" PVC water line, connecting an existing 12" PVC water line beneath Northern Avenue at Station 14+15 to an existing 6" water line located on 99th Avenue, a distance of approximately 1,240 feet. The estimated cost for installation of the 12" PVC water line is \$38,000.00. The STATE shall invoice PEORIA for the actual cost of installation after July 1, 1989.
5. PEORIA shall furnish and pay for all water after the water lines are extended to the final locations at the Outer Loop, for the area between Station 459+00 to Station 576+12, including Northern Avenue, Peoria Avenue and Olive Avenue cross streets, for landscape installation according to the landscape plans approved by PEORIA during the construction phase, and all water hereafter necessary to properly maintain the landscape.
6. After construction, the STATE shall maintain the landscaping and irrigation system within the freeway ROW.
7. PEORIA shall maintain the landscaping and the irrigation system for median islands at designated cross streets.
8. The STATE shall furnish all electrical power to control the landscape irrigation system within the freeway ROW and at designated cross streets.
9. In the event that PEORIA assumes responsibility for maintenance of traffic signals at designated cross streets, PEORIA shall furnish the electrical power necessary to control the landscape irrigation system within the freeway ROW and at designated cross streets.

10. PEORIA hereby agrees to maintain the median landscaping for designated cross streets in an attractive manner, as it was designed and approved by the STATE and PEORIA; and PEORIA will not make any changes, additions or deletions without written approval by the STATE. All maintenance work shall be conducted in a manner to minimize traffic congestion and interference with through traffic. All traffic control will meet the requirements of the STATE's "Traffic Control Manual for Highway Construction and Maintenance."

III. MISCELLANEOUS PROVISIONS

1. This Agreement shall become effective upon filing with the Secretary of State.

2. This Agreement shall remain in full force and effect for a period of one (1) year from the effective date. Thereafter, this Agreement will be automatically renewed for successive periods of one year unless terminated by either party upon ninety days written notice to the other party. It is understood and agreed that, in the event this Agreement is terminated by PEORIA, the STATE shall in no way be obligated to maintain said landscaping.

3. This Agreement may be cancelled by the Governor in accordance with Arizona Revised Statutes Section 38-511.

4. The provisions of Arizona Revised Statutes Section 35-214 are applicable to this contract.

5. In the event of any controversy which may arise out of this Agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes Section 12-1518(B) and (C).

6. All notices or demands upon any party to this Agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Arizona Department of Transportation
Engineering Consultants Services
205 South 17 Avenue, Room 118E
Phoenix, AZ 85007

City of Peoria
Eldon Johansen
City Engineer
8355 W. Peoria Ave.
Peoria, AZ 85345

7. Attached hereto and incorporated herein by reference is a copy of the written determination of each party's legal counsel that the parties are authorized under the laws of this state to enter into this agreement and that the agreement is in proper form.

IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.

ARIZONA DEPARTMENT OF
TRANSPORTATION

Charles L. Miller
Director

CITY OF PEORIA

By

Title CITY MANAGER

J. A. Bryant, II
~~Gary K. Robinson~~
~~Chief Deputy State Engineer~~

Recommended by

Larry L. Langer
Larry L. Langer, P.E.

Assistant Urban Highway Engineer

FILED WITH SECRETARY OF
STATE

No. _____
Date Filed _____

Secretary of State

CERTIFICATION OF RECORDING OFFICER

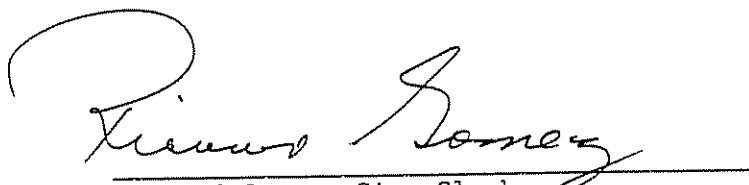
I, Richard Gomez, the duly appointed, qualified, and acting City Clerk of Peoria, Arizona, do hereby certify that the following extract from the minutes of the Regular Meeting of the Mayor and Council of the City of Peoria, Arizona, held on October 25, 1988 is a true and correct copy of the original minutes of such meeting on file and of record insofar as they relate to the matters set forth.

"CC-2170

ADOT Agreement

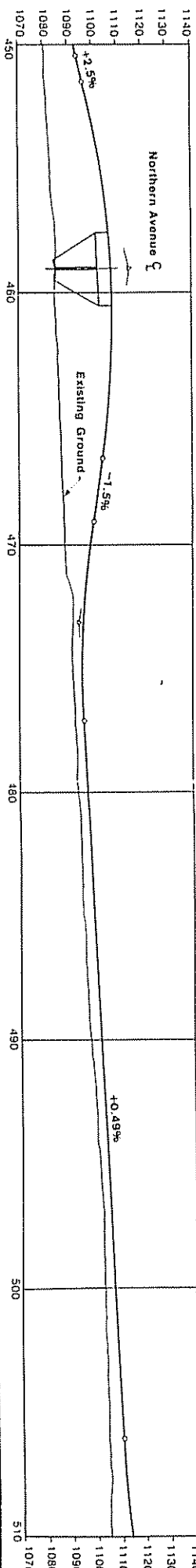
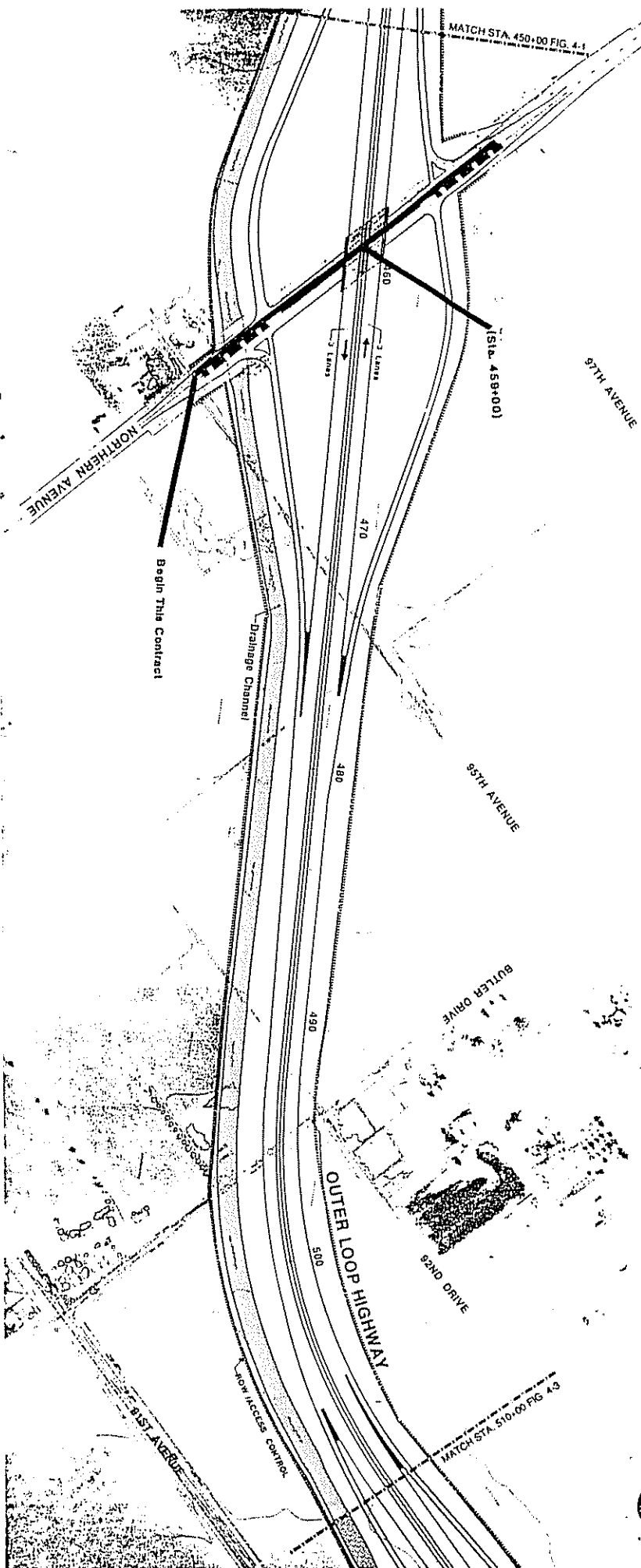
Councilman Palmer moved to approve the agreement with ADOT wherein the City will maintain the landscaping in the medians of the cross streets (Northern, Olive and Peoria) to the Outer Loop, in addition to providing water for all of the landscaping, including the Outer Loop; and further, to authorize budgeting an estimated \$38,000 in the 1990 Fiscal year Budget for a 12" waterline. Motion seconded by Councilman Brown and carried unanimously.

IN TESTIMONY WHEREOF, I have hereunto set my hand and the seal of said City of Peoria, Arizona this 7th day of November, 1988.


Richard Gomez, City Clerk

(SEAL)

Printed Mar. 1988
 PRELIMINARY
 Subject to Change



SCALE IN FEET

VERTICAL

HORIZONTAL

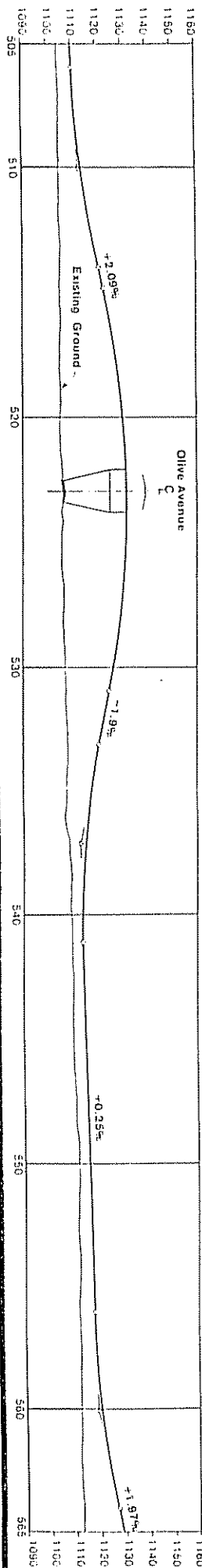
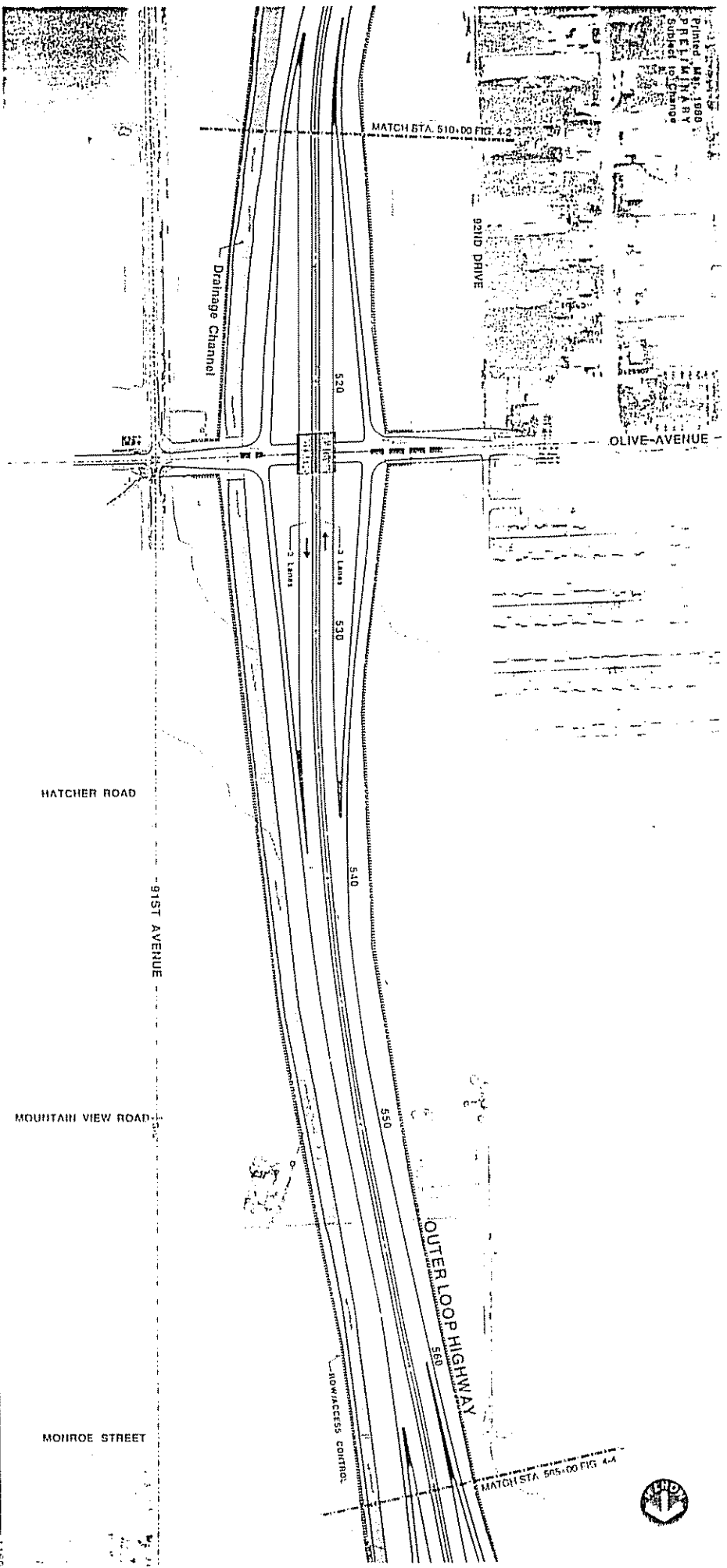


EXHIBIT A

Outer Loop Highway

Prepared by DeLeuw, Cather & Company, Management Consultant for the
 ARIZONA DEPARTMENT OF TRANSPORTATION

Printed: Mar. 1989
 PRELIMINARY
 Subject to Change



SCALE IN FEET



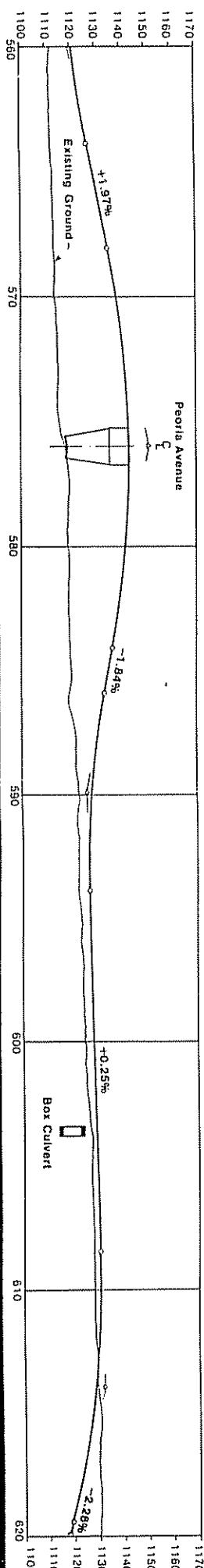
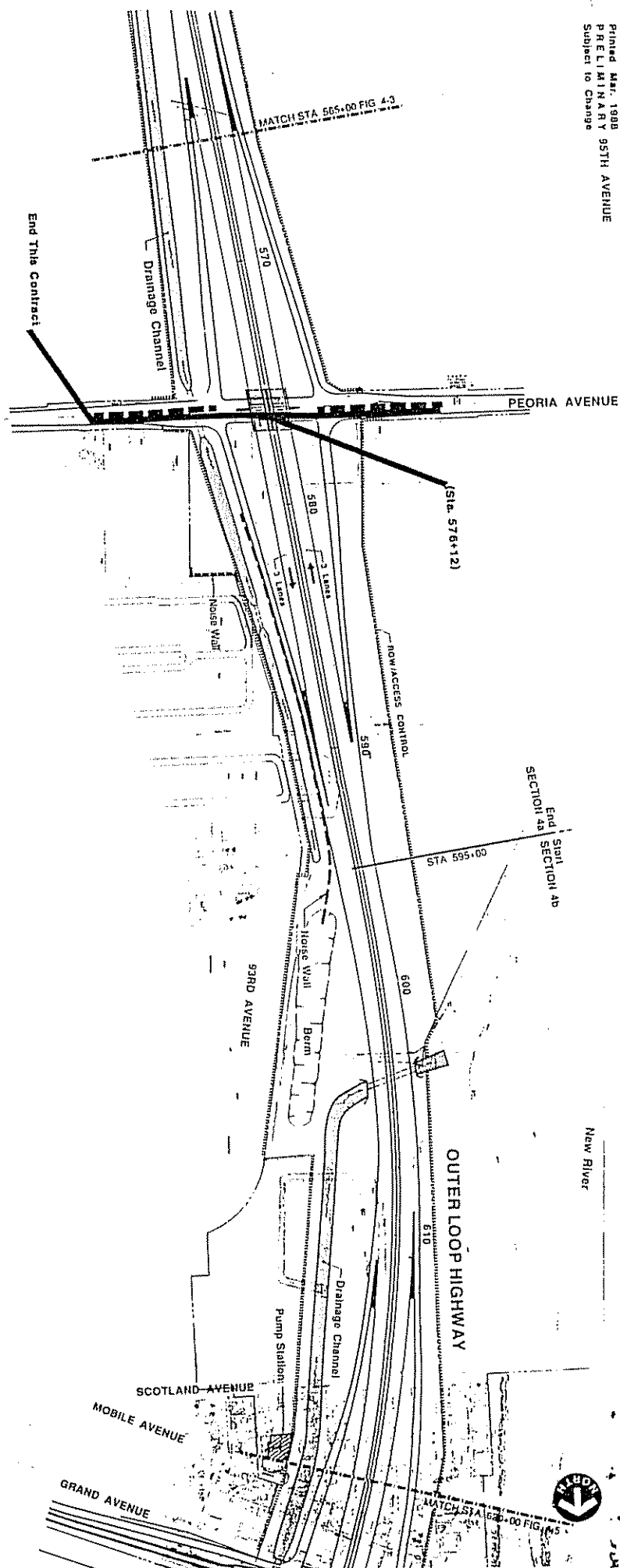
Outer Loop Highway

Prepared by: DeLeuw, Cather & Company, Management Consultant for the
 ARIZONA DEPARTMENT OF TRANSPORTATION

EXHIBIT 2

FIGURE 4-3
 OLIVE AVENUE INTERCHANGE AREA
 Median Landscaping

Printed Mar. 1988
 PRELIMINARY 95TH AVENUE
 Subject to Change



Outer Loop Highway
 Prepared by Deluwig, Cather & Company, Management Consultant for the
 ARIZONA DEPARTMENT OF TRANSPORTATION

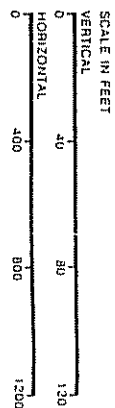


EXHIBIT A
 FIGURE 4-4
 PEORIA AVENUE INTERCHANGE AREA
 Median Landscaping

ECS File: JPA-88-81
Section: Outer Loop Highway
Section 4A
Project: AZM-600-0-509
Tracs No. 101LMA H080304C

RESOLUTION

BE IT RESOLVED ON THIS 3rd DAY OF OCTOBER, 1988, that I, CHARLES L. MILLER, as Director of the Arizona Department of Transportation, have determined that it is in the best of interests of the State of Arizona that the Department of Transportation, acting by and through the Highways Division, enter into an agreement with the City of Peoria for the City to maintain landscaping on certain State highways.

THEREFORE, authorization is hereby given to draft said agreement which, upon completion, shall be submitted for approval and execution by the State Engineer.

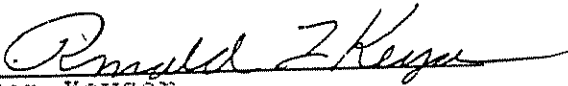


CHARLES L. MILLER, Director
Arizona Department of Transportation

MEMORANDUM

DATE: November 21, 1988
TO: Eldon Johansen, City Engineer
FROM: Ron Keyser, City Attorney
SUBJECT: Intergovernmental Agreement between the City and the
State of Arizona for the Landscape for the Outer Loop
Phase I

I approve the form of the attached IGA (A. G. Contract
KR88-2362-TRD). It is legally sufficient.


Ron Keyser
City Attorney

JT:RK:A:J1118B

Attachment



Attorney General

1275 WEST WASHINGTON

Phoenix, Arizona 85007

Robert R. Corbin

INTERGOVERNMENTAL AGREEMENT

DETERMINATION

A. G. Contract No. KR88-2362-TRD, is an agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining parties, other than the State or its agencies, to enter into said agreement.

DATED this 15th day of December, 1988.

ROBERT K. CORBIN
Attorney General

A handwritten signature in cursive script, reading "James R. Keppath", is written over a horizontal line.

Assistant Attorney General
Transportation Division